

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE:
PETITION OF INDEX
NEWSPAPERS LLC d/b/a
THE STRANGER TO UNSEAL
ELECTRONIC SURVEILLANCE
DOCKETS, APPLICATIONS AND
ORDERS

CASE NO. 2:17-MC-00145-RSL

JOINT STATUS REPORT

The Petitioner, Index Newspapers LLC d/b/a The Stranger, by and through its attorneys of record Geoffrey M. Godfrey and Aaron Mackey, and the United States Attorney's Office for the Western District of Washington, by and through Helen J. Brunner, First Assistant United States Attorney, and Teal Luthy Miller, Assistant United States Attorney, file this status report as required by the Court's October 2, 2018, order.

1. The United States Attorney's Office for the Western District of Washington and the Clerk of the Court for the Western District of Washington have completed but not yet signed a Memorandum of Understanding for a two-year pilot program governing the procedures by which the United States Attorney's Office seeks, and the Clerk of the Court dockets, orders authorizing the use of certain investigative processes so as to make more information about the use of those processes available prospectively through reports created from the PACER system. The Memorandum governs how the United States Attorney's Office will submit applications for orders under the Pen Register Act, 18 U.S.C. §§ 3123, 3124, authorizing the installation and use of a pen register or a trap-and-trace device and requiring a third party to assist with a pen register or a trap-and-

1 trace device to obtain prospective dialing/signaling information for a mobile device,
2 email and/or social media account (“PR/TT orders”); orders under the Stored
3 Communications Act, 18 U.S.C. §§ 2703(b), 2705, requiring service providers to provide
4 law enforcement with subscriber information and other non-content information or
5 records pertaining to the subscriber or customer for one or more of these accounts, and
6 prohibiting the provider from disclosing such order to the customer for a period of time
7 (“2703(d) orders”); and applications that seek both a PR/TT order and a 2703(d) order,
8 collectively referred to here as “PT Applications and Orders.”

9 2. Attorneys from the United States Attorney’s Office have also met with the
10 Clerk of the Court and members of his staff to discuss changes that would be necessary to
11 the applications presented by the United States and the docketing procedures used by the
12 Clerk’s office in order to implement the Memorandum. The Clerk of the Court will
13 create a new docketing category—the PT category—and plans to file PT Applications
14 and Orders in that new category beginning on January 1, 2019.

15 3. Beginning on January 1, 2020, the Clerk will generate semi-annual reports
16 reflecting the docket numbers and case captions associated with PT Applications and
17 Orders. These reports will be made publicly available on January 1 and July 1 of each
18 year in electronic form on the Court’s website in a PT docket report. The PT docket
19 report will contain docket numbers and case captions for PT Applications and Orders for
20 these types of orders filed during the six-month period ending six months before the
21 issuance of the report. The principal statute under investigation will be included in the
22 semi-annual PT docket reports, except where a citation to the statute is omitted from the
23 caption of an application to protect an investigation.

24 4. In order to facilitate the Clerk’s efforts to create the semi-annual reports on
25 the PT Applications and Orders filed in this district, the United States Attorney’s Office
26 will standardize the captions used for applications in this area. The United States
27 Attorney’s Office will begin using the standardized captions on January 1, 2019.

1 5. On November 29, 2018, the United States Attorney's Office shared the
2 Memorandum with counsel for Petitioner.

3 6. Counsel for Petitioner needs additional time to review the Memorandum
4 with their client and to confer with the United States Attorney's Office regarding the next
5 steps for this action. Accordingly, the parties jointly request an order extending until
6 January 11, 2019, the stay previously entered by the Court in this matter. The parties
7 shall, on or before that date, provide a joint status report indicating whether an extension
8 of the stay is needed, whether resolution of the petition on its merits is necessary, or
9 whether a status conference is appropriate.

10 DATED this 30th day of November, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorneys of record.

s/ Elisa G. Skinner
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